



Meeting of States Parties

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Seventeenth Meeting

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Report on budgetary matters for the financial period 2005-2006

Presented by the Registrar

I. Performance report for 2005-2006

1. In June 2004, the fourteenth Meeting of States Parties approved a budgetary amount of €15,506,500 for the financial period 2005-2006 (SPLOS/117, para. 1). In addition to those appropriations, in June 2005, the fifteenth Meeting of States Parties authorized the Tribunal to finance overexpenditures due to (a) the adjustment of remuneration of judges (effective 1 January 2005); (b) the increase in the daily subsistence allowance applicable to Hamburg; and (c) the application of the floor/ceiling mechanism to the annual and special allowances of judges (effective 1 July 2005), by using savings of 500,000 United States dollars from the financial period 2002, up to an amount of €378,500, and savings from the financial period 2004, up to an amount of €150,000. In addition, the fifteenth Meeting approved a supplementary budget of €351,899 for the financial period 2005-2006 (see SPLOS/132, paras. 1-3 and SPLOS/133, para. 2).

2. As a result, the additional appropriations, totalling up to €880,399, were approved for the financial period 2005-2006. From the additional appropriations, an amount of €312,684 was allotted for 2005.

3. Following consideration of the provisional performance report for 2005, in June 2006, the sixteenth Meeting of States Parties decided that an amount of €312,684 from the 2002 savings corresponding to the additional appropriations for 2005 would be surrendered and deducted from the assessed contributions of States parties in accordance with regulation 4.5 of the Financial Regulations of the Tribunal (SPLOS/146). Pursuant to that decision, the amount of €312,684 was deducted from the assessed contributions of States parties for the year 2007. As a result, a balance of €65,816 was left from the 2002 savings and was included in the additional appropriations allotted for 2006.

4. The performance report for the financial period 2005-2006 is attached as an annex to the present report. As shown in the performance report, the total



expenditure for that period amounts to €13,393,630, or 86.37 per cent of the amount of appropriations approved for 2005-2006 (€15,506,500). The performance can be explained by the fact that no new cases were submitted during 2005-2006, and therefore substantial savings, amounting to €2,068,915, were achieved under "Case-related costs". In addition, there were savings with respect to staff costs amounting to €288,300, owing to vacant positions in the Registry during the period in question. It may be noted that, if the case-related costs (€2,093,200) were excluded, the performance rate for other costs would amount to 99.67 per cent.

II. Report on action taken pursuant to the decisions on budgetary matters for 2005-2006 taken by the fifteenth and sixteenth Meetings of States Parties

A. Introduction

5. The fifteenth Meeting of States Parties decided on 21 June 2005 (SPLOS/132):

(a) As an interim measure, and pending a decision by States parties based on a report by the Registrar, taking into account the report requested in paragraph 8 of part III of General Assembly resolution 59/282, to approve an adjustment of the maximum annual remuneration of the members of the Tribunal to the level of the emoluments of the members of the International Court of Justice established in resolution 59/282, that is, 170,080 United States dollars, effective 1 January 2005, as well as an adjustment of pensions in payment in accordance with article 7, paragraph 2, of the pension regulations for members of the International Tribunal for the Law of the Sea, effective 1 January 2005;

(b) In the event that the Tribunal was unable to meet expenditures for 2005-2006 from approved appropriations made in the budget line "Special allowances of judges" under part I, to authorize the Registrar to incur expenditures to the extent that the shortfall in appropriation resulted from an increase in daily subsistence allowance as fixed by the United Nations;

(c) To authorize the Tribunal to finance overexpenditures referred to in paragraphs 5 (a) and (b) above by transfers between appropriation sections as far as possible and by using part of the savings of 500,000 United States dollars from the financial period 2002, up to an amount of €115,500;

(d) That the Registrar should report to the Meeting of States Parties on all relevant implications concerning any action taken pursuant to the decision contained in document SPLOS/132.

6. The fifteenth Meeting of States Parties also decided on 21 June 2005 (SPLOS/133):

(a) To apply to the annual allowance and the special allowance of the members of the Tribunal, effective 1 July 2005, the same floor/ceiling mechanism as is applicable to the emoluments of the members of the International Court of Justice on the understanding that any adjustment made to the mechanism in respect of the Court would equally apply to the mechanism in respect of the Tribunal;

(b) To authorize the Tribunal to finance overexpenditures due to the application of the floor/ceiling mechanism by using part of the savings from the financial period 2002 up to an amount of €263,000 and those from the financial period 2004 up to an amount of €150,000;

(c) To approve a supplementary budget of €351,899 for the financial period 2005-2006;

(d) That the Registrar should report to the sixteenth Meeting of States Parties on any action taken pursuant to the decision.

7. The sixteenth Meeting of States Parties decided on 23 June 2006 that an amount of €312,684 from the 2002 savings corresponding to the additional appropriations for 2005 would be surrendered and deducted from the assessed contributions of the States parties in accordance with regulation 4.5 of the Financial Regulations of the Tribunal (SPLOS/146).

B. Overexpenditures in 2005-2006

8. On the basis of the approved budget for the financial period 2005-2006, the following budget lines under section I, "Remuneration of judges", in part I, "Recurrent expenditure", were overrun in 2005-2006:

(a) *Annual allowances.* There was an overrun of €543,273 resulting from the adjustment of remuneration of judges and the application of the floor/ceiling mechanism to the annual allowance of judges;

(b) *Special allowances.* There was an overrun of €56,160 resulting from the application of the floor/ceiling mechanism to the special allowance of judges and an increase in the daily subsistence allowance applicable to Hamburg.

9. The overexpenditures in these two budget lines thus totalled €599,433.

10. Notwithstanding the increases due to the adjustment of the remuneration of judges and the application of the floor/ceiling mechanism, there was no overexpenditure in budget lines relating to the judges' pension scheme under part I, "Recurrent expenditure", and special allowances of judges and compensation to judges ad hoc under part III, "Case-related costs". This may be explained by the fact that (a) two judges were re-elected in June 2005 while provisions were made in the budget approved in 2004 for additional pension payments with respect to the seven judges whose terms of office came to an end on 30 September 2005; and (b) no new cases were submitted to the Tribunal in 2005-2006.

C. Action taken by the Tribunal

11. The overexpenditures in the two budget lines under the "Judges" section were first financed by the savings in other budget lines under the same section, which amounted to €160,939. As a result, the overall net overexpenditure in the "Judges" section amounted to €438,494. In accordance with the decision of the fifteenth Meeting of States Parties, the Tribunal financed the overexpenditure of €438,494 in the "Judges" budget section by transfer between appropriation sections as follows (in euros):

<i>Section</i>	<i>Appropriation item</i>	<i>Appropriation amount</i>	<i>Expenditure</i>	<i>Difference before transfer</i>	<i>Transfer amount</i>	<i>Difference after transfer</i>
1	Judges (part I: recurrent expenditures)	3 462 300	3 900 794	-438 494	438 494	0
9	Judges (part III: case-related costs)	1 555 000	19 669	1 535 331	-438 494	1 096 837
Total		5 017 300	3 920 463	1 096 837	0	1 096 837

12. In accordance with financial regulation 4.5, the balance remaining from the surplus of income over expenditure from the financial period 2002 (see para. 3 above), amounting to €65,816, and the total balance from the financial period 2004, amounting to €208,670, will be surrendered and deducted from the assessed contributions of the States parties for the year 2008.

13. The supplementary budget amounting to €351,899 as approved by the Meeting of States Parties for the financial period 2005-2006 is included in the amount of savings shown in the financial statements as at 31 December 2006. In accordance with financial regulation 4.5, this amount will be surrendered to States parties in 2008 and deducted from the assessed contributions for 2009.

III. Report on action taken pursuant to the Financial Regulations of the Tribunal

A. Investment of the funds of the Tribunal

14. In respect of the investment of funds of the Tribunal, regulation 9 of the Financial Regulations of the Tribunal stipulates the following:

9.1 The Registrar may make prudent short-term investments of moneys not needed for immediate requirements and shall inform the Tribunal and the Meeting of States Parties periodically of such investments.

9.2 Income derived from investments shall be credited to miscellaneous income or as provided in the rules relating to each fund or account.

15. During the financial period 2005-2006, the Tribunal's funds were kept in Chase Bank and Deutsche Bank in United States dollars and euros as short-term investments, which are investments made for less than 12 months according to rule 109.1 of the Financial Rules of the Tribunal. The funds yielded interest which amounted to 26,256.31 United States dollars and €109,889.06 during the period in question. This earned interest has been credited as miscellaneous income in accordance with regulation 9.2 of the Financial Regulations of the Tribunal.

B. The Korea International Cooperation Agency trust fund

16. The Korea International Cooperation Agency (KOICA) offered to provide a grant of 150,000 United States dollars pursuant to a memorandum of understanding signed between the Tribunal and KOICA on 9 March 2004. Its object is to finance

the expenses of participants from developing countries in the Tribunal's internship programme.

17. In accordance with regulation 6.5 of the Financial Regulations of the Tribunal, a trust fund was subsequently established and a special euro bank account named "KOICA grant" was set up with Deutsche Bank for this purpose. When the funds, amounting to 150,000 United States dollars, were received from KOICA in March 2004 they were converted into €120,600 on the basis of the exchange rate of 0.804 fixed by the United Nations for March 2004.

18. In March 2006, the Tribunal received from KOICA its second contribution to the KOICA trust fund, in the amount of 100,000 United States dollars. This amount was converted into €84,400 on the basis of the exchange rate of 0.844 fixed by the United Nations for March 2006. Following the signing of a memorandum of understanding between the Tribunal and KOICA, a further amount of €213,645 should be paid to the Tribunal in 2007 in order to finance the internship programme of the Tribunal, the organization of regional workshops and the participation of students from developing countries in the summer academy organized by the International Foundation for the Law of the Sea.

19. The performance of the KOICA grant as at 31 December 2006, which should be reported to the Meeting of States Parties in accordance with regulation 6.5 of the Financial Regulations of the Tribunal, is as follows:

**Performance of the grant of the Korea International Cooperation Agency
in euros**

Opening balance	120 600.00
Gain on exchange	2 431.50
28 March 2006 contribution	84 400.00
Loss on exchange	-2 027.06
Total	205 404.44
Expenditure on participants and authorized activity	145 542.47
Bank charges	949.61
Bank balance	58 912.36
Accounts receivable	2 789.54
Unliquidated obligations	-4 500.00
Available balance	57 201.90

IV. Other matters

20. In 2005, the fifteenth Meeting of States Parties decided, as an interim measure, and pending a decision by States parties based on a report by the Registrar, taking into account the report requested in paragraph 8 of part III of General Assembly resolution 59/282, to approve an adjustment of the maximum annual remuneration of the members of the Tribunal to the level of the emoluments of the members of the

International Court of Justice established in General Assembly resolution 59/282, that is, 170,080 United States dollars, effective 1 January 2005, as well as an adjustment of pensions in payment in accordance with article 7, paragraph 2, of the pension regulations for members of the International Tribunal for the Law of the Sea, effective 1 January 2005 (SPLOS/132).

21. In paragraph 8 of part III of resolution 59/282, the General Assembly had requested the Secretary-General to submit a comprehensive report to the Assembly at its sixty-first session, including proposals for a mechanism of remuneration based on market exchange rates and local retail price fluctuations that limits the divergence of such remuneration from that of comparable positions of seniority within the United Nations system, and on the protection of pensions in payment to former judges and their survivors.

22. Further to that resolution, in his report on the conditions of service and compensation for officials other than Secretariat officials (A/61/554), the Secretary-General reviewed the remuneration of judges of international courts and tribunals and suggested that a post adjustment mechanism similar to that applied to salaries of staff in the Professional and higher categories be applied to their remuneration. According to that approach, the application of a 4.57 per cent increase to the proposed base salary of 170,080 United States dollars would result in a revised proposed annual base salary of 177,900 United States dollars, effective 1 January 2007 (see A/61/554, para. 82).

23. The Advisory Committee on Administrative and Budgetary Questions expressed its opinion that the proposal of the Secretary-General, which used the current net remuneration as the base salary, unduly inflated the remuneration calculated under a post adjustment system, since the current net remuneration of judges of the International Court of Justice already included a cost-of-living component (A/61/612, para. 8). The Advisory Committee further pointed out that the salaries of the members of the International Court of Justice were *sui generis*, and that the system of emoluments and conditions of service applicable to the members of the Court was distinct from that of any other in the United Nations system (A/61/612, para. 9).

24. The Committee therefore recommended the elaboration of alternative methods for adjusting remuneration according to market exchange rates and movement of the local cost-of-living index, with a view to protecting the levels of the remuneration as requested by the General Assembly. The new proposals should be presented to the General Assembly at its sixty-second session (A/61/612, para. 10).

25. The Tribunal will continue to monitor this matter and will report to the next session of the Meeting of States Parties on any developments.

Performance report for 2005-2006 (in euros)

Part Section	Objects of expenditure	Approved budget	Total expenditure (as at 31/12/2006)	Balance	Total expenditure/ approved budget (percentage)
1	I				1
2	1				2
3	1	3 462 300	3 900 794	-438 494	
4	1	1 996 600	2 539 873	-543 273	127.21
5	1	620 600	676 760	-56 160	109.05
6	1	246 300	238 271	8 029	96.74
7	1	479 300	355 363	123 937	74.14
8	1	119 500	90 527	28 973	75.76
9	2	6 632 700	6 344 400	288 300	
10	2	4 358 000	4 205 062	152 938	96.49
11	2	1 792 900	1 724 489	68 411	96.18
12	2	30 000	30 000	0	100.00
13	2	39 000	36 753	2 247	94.24
14	2	213 400	184 875	28 525	86.63
15	2	133 100	117 399	15 701	88.20
16	2	66 300	45 822	20 478	69.11
17	2	12 200	12 188	12	99.90
18	2	172 200	169 348	2 852	98.34
19	2	13 200	12 929	271	97.95
20	2	2 653 700	2 483 931	169 769	
21	2	1 953 000	1 905 245	47 755	97.55
22	2	332 600	307 601	24 999	92.48
23	2	182 700	144 827	37 873	79.27
24	2	37 900	29 779	8 121	78.57
25	2	114 700	89 479	25 221	78.01
		32 800	7 000	25 800	21.34

<i>Part Section</i>	<i>Objects of expenditure</i>	<i>Approved budget</i>	<i>Total expenditure (as at 31/12/2006)</i>	<i>Balance</i>	<i>Total expenditure/ approved budget (percentage)</i>	
26	7	Library and related costs	317 000	15 675	95.06	26
27		Library, procurement of books and publications	227 400	15 129	93.35	27
28		External printing and binding	89 600	546	99.39	28
29						29
30	II	NON-RECURRENT EXPENDITURE				30
31	8	Furniture and equipment				31
32		Purchase of equipment	150 000	144 429	96.29	32
33				5 571		33
34	III	CASE-RELATED COSTS	2 093 200	24 285	1.16	34
35	9	Judges	1 555 000	19 669	1.26	35
36		Special allowances	1 222 600	9 840	0.80	36
37		Compensation to judges ad hoc	72 900	0	0.00	37
38		Travel to meetings, including judges ad hoc	259 500	9 829	3.79	38
39	10	Staff costs	538 200	4 616	0.86	39
40		Temporary assistance for meetings	493 200	4 616	0.94	40
41		Overtime	45 000	0	0.00	41
42	11	Miscellaneous	0	0		42
43						43
44	IV	WORKING CAPITAL FUND	0	0		44
45						45
46	IV	Total	15 506 500	13 393 630	86.37	46